

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER LEE MARTIN,

Defendant.

ORDER
05-CR-016-S

Petition for revocation of defendant's supervised release came on to be heard before the Court in the above entitled matter on May 25, 2005, the government having appeared by Stephen P. Sinnot, Acting United States Attorney for the Western District of Wisconsin, by Peter Jarosz, Assistant United States Attorney; the defendant in person and by Kirt R. Posthuma. Honorable John C. Shabaz, District Judge, presided.

From the record and defendant's stipulations, the court makes the following findings of fact.

The defendant was sentenced in the United States District Court for the Southern District of Virginia on May 13, 2002 following his conviction for conspiracy to distribute heroin, in violation of 21 U.S.C. § 846, a Class C felony. The defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 37 months with a three-year term of supervised release to follow. Jurisdiction of this case was transferred to the Western District of Wisconsin on February 10, 2005.

Standard condition #2 of supervised release ordered the defendant to report as directed to the supervising probation officer and submit a truthful, complete written report within the first five days of each month. Standard condition #6 ordered the defendant to notify the supervising probation officer at least ten days prior to any change in residence or employment. Additionally, standard condition #11 ordered the defendant to notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.

The defendant began his term of supervised release on July 2, 2004. Concurrent to the federal term of supervised release, the defendant was being supervised by the Wisconsin Department of Corrections for his conviction for third degree sexual assault, Jackson County Wisconsin Circuit Court case number 2001CR00058. The defendant is a registered sex offender in the state of Wisconsin.

The defendant has stipulated that he is in violation of standard condition #11 of his conditions of supervised release when on July 9, 2004 the defendant was arrested by Jackson County, Wisconsin Sheriff's Office for being in the company of an individual under the age of 18 without a suitable escort. He failed to notify the United States Probation Office of this law enforcement contact.

The defendant has further stipulated that he is in violation of standard condition # 2 by his failure to submit regular monthly reports to the U.S. Probation Office as directed.

The defendant has also stipulated that he is in violation of standard condition #6 by his failure to report to the United States Probation Office that in October 2004 he lost his employment at two different jobs. Additionally, he failed to keep the United States Probation Office informed of his whereabouts. On February 24, 2005 this Court issued a warrant for the arrest of the defendant since his whereabouts were unknown to the United States Probation Office.

The defendant's violations all fall into the category of Grade C violations as defined by § 7B1.1(a)(3) of the sentencing guidelines policy statement for violations of supervised release. Upon a finding of a Grade C violation, the court may revoke supervised release, extend the term of supervised release or modify the conditions of supervision, pursuant to § 7B1.3(a)(2).

The defendant's violations require revocation. He has shown himself to be both unwilling to follow conditions of supervision and a danger to the community. Accordingly, the three-year term of supervised release imposed on the defendant on May 13, 2002 will be revoked.

The defendant's original criminal history category was IV. A Grade C violation and a Criminal History Category IV result in a guideline range of 6 to 12 months. The statutory maximum period of

imprisonment that may be imposed is two years. Pursuant to 18 U.S.C. § 3583(e) (3) a person whose term of supervised release is revoked may not be required to serve more than two years if the offense for which the defendant was sentenced previously was a Class C felony.

After reviewing the non-binding policy statements of Chapter 7 of the sentencing guidelines, the Court has selected a sentence at the top of the sentencing guidelines. The intent of this sentence is to impress upon the defendant the seriousness of repeated violations of his conditions of supervised release and the importance of following the instructions of the Court and Probation Office. This sentence was chosen to also protect the community.

ORDER

IT IS ORDERED that the period of supervised release imposed on the defendant on May 13, 2002 is REVOKED and the defendant is committed to the custody of the Bureau of Prisons for a term of 12 months. No term of supervised release shall follow.

The defendant does not have the financial means or earning capacity to pay the cost of incarceration and supervision.

Entered this 25th day of May, 2005.

BY THE COURT:

/S/

JOHN C. SHABAZ
District Judge